

The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT TACOMA

JEFFERY S. MARTIN,

Plaintiff,

v.

PIERCE COUNTY, a Washington political subdivision; PIERCE COUNTY DOE CORRECTION OFFICERS 1-10, in their individual and official capacities; NAPHCARE, INC., an Alabama corporation doing business in the State of Washington; MIGUEL BALDERRAMA, M.D., in his official and individual capacity; JANEL FRENCH LPN, in her official and individual capacity; IRINA HUGHES, in her official and individual capacity; and NAPHCARE DOE EMPLOYEES 1-10, in their individual and official capacities;

Defendants.

NO. 3:20-cv-05709-BHS

FIRST AMENDED COMPLAINT

COMES NOW, the plaintiff JEFFERY S. MARTIN (hereafter referred to as “Mr. Martin” or “Plaintiff”), by and through his counsel Bardi D. Martin, of Boyle Martin Thoeny, PLLC, and makes the following complaint against defendants (hereafter referred to collectively as “Defendants”), each of them, jointly and severally, upon information and belief, and respectfully alleges:

I. INTRODUCTION

1. This is a civil rights action under 42 U.S.C. § 1983 resulting from events that occurred during the detention of Jeffrey S. Martin in the Pierce County Detention and Corrections Center in Tacoma, Washington. Defendants repeatedly denied adequate medical care to Plaintiff with deliberate indifference to his serious medical needs, in violation of his rights under the Eighth Amendment to the United States Constitution. The denial of adequate medical care was the result of Defendants Pierce County and Naphcare's *de facto* policy and/or custom of providing inadequate medical care to maximize cost savings at the expense of inmates' health and safety. Defendants knew of Plaintiff's serious medical need and disregarded it by failing to provide available treatment and administer medication, instead allowing it to unnecessarily develop into a much more serious condition. As a result, Plaintiff suffered permanent damage to his vision in both eyes, pain and suffering, and additional damages to be proven at trial.
2. This action is also brought to seek redress for the tort of medical-malpractice.

II. JURISDICTION

3. This Court has original subject matter jurisdiction over Plaintiff's civil rights claims under 42 U.S.C. § 1983, pursuant 28 U.S.C. § 1331 (federal question), and 28 U.S.C. § 1343 (civil rights).
4. This Court has supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. § 1367(a) because they arise under Washington state law, and are so related to the claims arising under federal law that they form part of the same case or controversy.

III. VENUE

5. Venue is appropriate in this District pursuant to 7 C.F.R. §279.7(a), 7 U.S.C. §2023(13), and 28 U.S.C. §1391(b) because Plaintiff resides in Onalaska, Lewis County, Washington; the facts giving rise to the circumstances herein occurred in the Western District of Washington; and one or more of the Defendants resides in or has its principal place of business in Pierce County, Washington.
6. This Court has personal jurisdiction over the named Defendants because they either reside in this judicial district and/or because they do systematic and continuous business in this judicial district.

IV. PARTIES

7. Plaintiff JEFFREY S. MARTIN is a Washington State resident and currently resides in Lewis County, Washington. Plaintiff was convicted of multiple misdemeanor crimes and, at times relevant hereto, was confined pursuant to his sentencing at the Pierce County Detention Center (hereafter “PCDC”), Pierce County, Washington, under the jurisdiction of the State of Washington. While at PCDC, Mr. Martin’s civil rights were violated when the Defendants were deliberately indifferent to his serious medical needs and safety.
8. Defendant PIERCE COUNTY is a governmental entity and political subdivision of the State of Washington. Defendant Pierce County operates the PCDC. The PCDC is a jail that houses both pre-trial detainees and convicted prisoners (hereafter collectively “Detainees”). All Detainees confined at the PCDC are entitled to constitutional protections under either the Eighth or Fourteenth Amendment to the United States

1 Constitution, including, but not limited to, constitutionally-adequate medical care and
 2 humane conditions of confinement. As operator of the PCDC, Pierce County has a
 3 constitutional duty to provide such adequate medical care to Detainees, a duty which
 4 Pierce County breached with regard to Plaintiff.

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 6 9. On information and belief, the PCDC employs defendants DOE CORRECTION
 7 OFFICERS 1 THROUGH 10, all of whom are individuals residing in the State of
 8 Washington. At the time of the claims alleged in the complaint arose, Doe Correction
 9 Officers we're acting under color of state law as correctional officers and within the
 10 scope of their duties of employment with the PCDC; and were directly responsible for the
 11 proper housing, safe confinement, and medical care of Detainees under their
 12 responsibility at the PCDC. As a result of Pierce County and Naphcare's *de facto* policy
 13 of providing inadequate medical care to maximize cost savings at the expense of inmates'
 14 health and safety, Doe Correction Officers 1 through 10 were deliberately indifferent to
 15 Plaintiff's serious medical needs resulting in serious injury and damages to Plaintiff.

16
 17 10. Defendant NAPHCARE, INC. (hereafter "NaphCare") is a private health care company
 18 that contracted with Pierce County to provide medical services to Detainees at the PCDC.
 19 NaphCare employs doctors, nurses, and other medical professionals to provide care to
 20 Detainees pursuant to its contract with Pierce County; establishes related policies either
 21 formally or by custom and practice; and was responsible for the employment, training,
 22 supervision and conduct of persons responsible for the inadequate medical care of
 23 Plaintiff as described herein. NaphCare is an Alabama corporation qualified to do
 24 business in Washington. Its registered agent for service of process is Ken Schneider,
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2015 33rd St., Everett, WA 98201. NaphCare is considered a “person” under 42 U.S.C. § 1983 and is subject to liability for punitive damages and all other damages to which an individual would be subject when acting under color of state law.

11. Upon contracting with Pierce County to provide medical and/or other services to Detainees, NaphCare assumed a public function, began acting under color of state law, and became legally responsible to comply with all requirements of the United States Constitution. NaphCare practices a *de facto* policy of displaying deliberate indifference to Detainees’ safety and serious medical needs by delaying, denying, and interfering with Detainees’ medical treatment in an effort to reduce costs, and that policy and custom was the driving force behind NaphCare employee’s inadequate care of Plaintiff’s serious medical needs

12. Defendant MIGUEL BALDERRAMA, M.D is an individual residing in the State of Washington. At all material times, Dr. Balderrama was licensed in Washington State to provide health care; was an agent, employee and/or subcontractor of Pierce County and/or NaphCare. Dr. Balderrama had overall responsibility and authority for establishing, monitoring, and evaluating standards of clinical care and practice at the Jail, and monitoring staff performance to assure compliance with practice standards. At all material times, Dr. Balderrama was acting under color of state law. Defendant Balderrama was responsible for providing medical care to Plaintiff during his detention. The actions and omissions alleged in this complaint were carried out by Dr. Balderrama and/or carried out with his knowledge, information, consent or approval, fell below the standard of care for his practice area and were in violation of his obligations under the

1 Eighth Amendment to the United States Constitution. The actions and omissions carried
2 out by Dr. Balderrama were the result of Pierce County and Naphcare's *de facto* policy of
3 providing inadequate medical care to maximize cost savings at the expense of inmates'
4 health and safety,
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6 13. Defendant JANEL FRENCH LPN is an individual residing in the State of Washington.

7 At all material times, Ms. French was licensed in Washington State to provide health
8 care; was an agent, employee and/or subcontractor of NaphCare; and was responsible for
9 providing medical care to Plaintiff during his detention. At all material times, Ms.
10 French was acting under color of state law. The actions and omissions alleged in this
11 complaint were carried out by Ms. French and/or carried out with her knowledge,
12 information, consent or approval, fell below the standard of care for her practice area, and
13 were in violation of her obligations under the Eighth Amendment to the United States
14 Constitution. The actions and omissions carried out by Ms. French were the result of
15 Pierce County and Naphcare's *de facto* policy of providing inadequate medical care to
16 maximize cost savings at the expense of inmates' health and safety.
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19 14. Defendant IRINA HUGHES, RN is an individual residing in the State of Washington. At

20 all material times, Ms. Hughes was licensed in Washington State to provide health care;
21 was an agent, employee and/or subcontractor of NaphCare; and was responsible for
22 providing medical care to Plaintiff during his detention. At all material times, Ms.
23 Hughes was acting under color of state law. The actions and omissions alleged in this
24 complaint were carried out by Ms. Hughes and/or carried out with her knowledge,
25 information, consent or approval fell below the standard of care for her practice area, and
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1 were in violation of her obligations under the Eighth Amendment to the United States
2 Constitution. The actions and omissions carried out by Ms. Hughes were the result of
3 Pierce County and Naphcare's *de facto* policy of providing inadequate medical care to
4 maximize cost savings at the expense of inmates' health and safety.
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6 15. Defendants NAPHCARE DOE EMPLOYEES 1 through 10 are individuals residing in
7 the State of Washington. At all material times, Naphcare Doe Employees 1 through 10
8 were licensed in Washington State to provide health care; were agents, employees and/or
9 subcontractors of NaphCare; were responsible for providing medical care to Plaintiff
10 during his detention, and were acting under color of state law. The actions and omissions
11 alleged in this complaint were carried out by Naphcare Doe Employees 1 through 10
12 and/or carried out with their knowledge, information, consent or approval fell below the
13 standard of care in their respective practice areas and were in violation of their
14 obligations under the Eighth Amendment to the United States Constitution. The actions
15 and omissions carried out by Naphcare Doe Employees 1 through 10 were the result of
16 Pierce County and Naphcare's *de facto* policy of providing inadequate medical care to
17 maximize cost savings at the expense of inmates' health and safety.
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20 16. The true names and capacities, whether individual, corporate, associate or otherwise of
21 the Defendants Naphcare Doe Employees 1 through 10 and Doe Corrections Officers 1
22 through 10 are currently unknown to Plaintiff who, therefore sues said Defendants by
23 such fictitious names. Each Defendant designated herein as a DOE is legally responsible
24 in some manner for the events herein complained of, and proximately caused injuries and
25 damages thereby to the Plaintiff. Plaintiff will ask leave of the Court to amend this
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1 Complaint to insert the true names and capacities of such Defendants when same have
2 been ascertained and will further ask leave to join said Defendants in these proceedings.

3 17. The acts and omissions of all Defendants, as set forth herein, were at all material times
4 pursuant to the actual customs, policies, practices, and procedures of Pierce County, the
5 PCDC and/or NaphCare.
6

7 **V. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

8 18. Plaintiff submitted multiple grievances about his inadequate medical treatment in the
9 Pierce County Detention Center while he was still in jail pursuant to 42 U.S. Code §
10 1997e.
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12 19. On information and belief, no investigation was ever conducted, and Defendant Pierce
13 County deliberately ignored Plaintiff's second grievance, demonstrating a County policy
14 of deliberate indifference, and of encouraging deliberate indifference among its
15 employees by failing to investigate, discipline, or retrain employees who are found to
16 have been deliberately indifferent.
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18 **VI. SUMMARY OF FACTS**

19 20. Between September 15, 1991 and March 24, 1992, Jeffrey Martin was charged with
20 several misdemeanor crimes in Pierce County District Court, including two DUI's and
21 one Assault 4. Mr. Martin received a suspended sentence on the first DUI charge, entered
22 a deferred prosecution on the second DUI charge, and entered a deferred prosecution on
23 the other DUI charge, and entered a deferred sentence on the Assault 4 charge. In 2013,
24 Mr. Martin failed to appear at probation violation hearings and bench warrants were
25 issued in all three cases. On January 26, 2017, Mr. Martin was arrested in Pierce County
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1 Washington for DUI, Operating A Vehicle Without Ignition Interlock, and Driving with
2 License Suspended, and booked into the PCDC on the outstanding bench warrants.

3 21. At the time Mr. Martin entered the PCDC, he weighed 220 pounds, his vision was better
4 than 20/20, and he had no history of eye ailments.

5 22. On March 21 2017, Mr. Martin pleaded guilty and was sentenced on the 2017 charges.

6 In addition, the court revoked his deferred sentence, deferred prosecution, and a
7 significant portion of his suspended DUI sentence, and he was remanded to the PCDC
8 with a release date of May 20, 2018.

9 23. In May 2017 Mr. Martin began experiencing severe pain, dryness, and itchiness in both
10 eyes. On May 19, 2017, he alerted Defendants of his condition and requested medical
11 attention. Defendants waited several days to examine Mr. Martin's eyes and made him
12 wait several more days before they provided him with over the counter eye drops.

13 24. In early June 2017, Mr. Martin symptoms grew to include blurred vision and intense
14 migraines. As his symptoms grew more severe and painful, he sought medical care from
15 Defendants with greater urgency and frequency but Defendants typically waited days
16 before responding to his requests for medical attention.

17 25. On June 3, 2017, Plaintiff complained that his eyes itched and burned so badly he could
18 not sleep more than a few hours per night and requested melatonin. Jail medical staff
19 refused his request.

20 26. In early July 2017, Mr. Martin was finally examined by the sole MD on staff, Defendant
21 Dr. Miguel Balderrama, who diagnosed erythema in both eyes, prescribed an anti-
22 inflammatory for pain, and scheduled a consultation with an outside ophthalmologist for
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1 July 21, 2017. Jail medical staff failed to provide the eye drops and anti-inflammatories
2 to Mr. Martin for approximately one week, despite being on notice he was experiencing
3 severe pain, blurred vision in both eyes, insomnia, and Defendant Balderrama finding his
4 condition serious enough to schedule Mr. Martin to be transported to an outside
5 ophthalmologist.
6

7 27. On information and belief, Defendants Janelle French LPN, Irena Huges NP, and
8 Naphcare Doe employees, worked full time and had regular shifts at the PCDC
9 throughout 2017 and 2018. During this period, Defendants French and Huges and were
10 responsible for insuring Dr. Balderrama's healthcare instructions were followed,
11 including ordering and administering Mr. Martin's medications, but regularly failed to do
12 so.
13

14 28. On July 21, 2017, Mr. Martin was transported to Cascade Eye and Skin and examined by
15 ophthalmologist Dr. Steven Brady, who diagnosed micro-cists on both eyes and severe
16 ocular hypertension in both eyes. Dr. Brady administered medication significantly
17 reducing Mr. Martin's dangerously high eye pressure levels, prescribed medications to
18 further reduce the ocular hypertension. Due to the seriousness of Mr. Martin's medical
19 condition, Dr. Brady's staff provided samples of the medications to the PCDC transport
20 officers to bring back to jail medical staff to immediately begin administering to Mr.
21 Martin as directed.
22

23 29. On information and belief, Defendants Balderamma, Hughes, French, and NaphCare
24 Does took custody and control of the sample medication upon Plaintiff's return but
25 immediately lost the samples.
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1 30. Defendant Hughes reviewed the consult records that day, thus Defendants were on notice
2 of Mr. Martin's serious medical condition; the need to immediately begin administering
3 the medications as directed by Dr. Brady to avoid permanent damage to Mr. Martin's
4 eyes; and that Dr. Brady ordered Mr. Martin to return in one week for a follow up
5 appointment to check the progress of his severe ocular hypertension, adjust medications
6 if necessary, and perform a full eye exam.
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8 31. Beginning July 22, 2017, Mr. Martin repeatedly complained to Defendants he was not
9 receiving his medications, that he needed them 2 and 3 times a day to relieve eye
10 pressure, that samples had been provided, and that without the medications "severe" and
11 "irreversible" damage would occur. Mr. Martin also advised Defendants the pressure in
12 his eyes was causing extreme pain and "vision issues."
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14 32. Defendants Balderamma, Hughes, and French inexplicably waited until July 27, 2017 to
15 begin administering the medications prescribed by Dr. Brady, a full six days later than
16 directed by Dr. Brady, despite being provided samples on July 21, 2017.
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18 33. On August 18, 2017, Plaintiff filed a grievance with Defendants advising he was
19 suffering excruciating pain, severe migraines caused by ocular hypertension, and he was
20 overdue for the follow up appointment that Dr. Brady had indicated was imperative to
21 monitor medication.
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23 34. On August 22, 2017, Mr. Martin was finally transported back to Cascade Eye and Skin.
24 On information or belief, Defendants delayed scheduling this appointment based on
25 consideration of financial constraints, not based on medical judgment.
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1 35. At that appointment, Dr. Brady determined that due to the long delay in the follow up
2 appointment, Mr. Martin needed immediate surgery in both eyes to install Ahmed Tubes
3 to relieve the dangerously high eye pressure. Defendants reviewed the appointment
4 records that day and were then on notice a delay in surgery could cause irreparable
5 damage to his eyes. Yet, Defendants Balderamma, Hughes and French continued to
6 show deliberate indifference to Mr. Martin's right to adequate medical care by repeatedly
7 depriving him of his eye medications while he awaited surgery, and making him wait
8 nearly one month before undergoing the first of the two surgeries.

10 36. On September 13, 2017, Dr. Balderamma responded to Mr. Martin's August 18, 2017
11 grievance, and in an apparent effort to cover up his and his staff's role in the progression
12 of Mr. Martin's medical condition, falsely claimed he had a "history of glaucoma that has
13 failed medical management." Further stating "[g]laucoma is a chronic medical condition
14 that deteriorates in months and years and not in weeks. The decision to do surgery to
15 control this condition was based on the initial findings that the ophthalmologist
16 discovered on the physical exam."

18 37. On September 14, 2017, Mr. Martin underwent surgery to install an Ahmed Tube in his
19 right eye to relieve pressure. On September 21, 2017, Mr. Martin underwent surgery to
20 install an Ahmed Tube in his left eye. Dr. Brady prescribed post-operative medication to
21 give the support necessary for Mr. Martin's eyes to adjust to the recently installed Ahmed
22 Tubes and recover from surgery. Again, Defendants were provided with post-operative
23 instructions and again given medication samples so no delay would occur in
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1 administering the medications to Mr. Martin. Following the September 21, 2017 surgery,
2 Defendants failed to administer medication to Mr. Martin for five days.

3 38. By the time he was brought back to Cascade Eye on September 26, 2017, and examined
4 by Michael W. Rausch, MD, Mr. Martin had lost all vision in his right eye because it had
5 hemorrhaged and completely collapsed, with an intraocular pressure of 0. The pressure
6 in Mr. Martin's left eye had also severely dropped with an intraocular pressure of 6. Dr.
7 Rausch concluded the hemorrhage and collapse of Plaintiff's right eye and the other post-
8 operation complications resulted from Mr. Martin being deprived of his medication after
9 the surgery. Dr. Rausch ordered prednisolone acetate be administered to Mr. Martin's left
10 eye every hour for 24 hours in an attempt to increase eye pressure, however Mr. Martin's
11 left remained in the deflated state for weeks.
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14 39. Mr. Martin was provided an eye patch and instructed to avoid bending over to prevent his
15 right eye from falling out of the socket.

16 40. After the surgeries, Mr. Martin continued to suffer extreme pain and severe migraines
17 and was never provided adequate pain management by Defendants despite his clear need
18 and continuous requests. Mr. Martin was also regularly deprived of the over the counter
19 pain relievers approved by Defendants.
20

21 41. Pierce County and NaphCare had a policy of dispensing medications three times a day by
22 by calling role call and expecting inmates to immediately line up to receive their
23 medications. On information and belief, it was jail staff's de facto policy and custom to
24 deny inmates their medication if they did not line up quickly enough and note the inmate
25 refused medication or was not in line. On information and belief, this de facto policy was
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1 in place in an effort to reduce costs, and had an especially negative impact on inmates
2 with mobility or mental health issues.

3 42. Mr. Martin's symptoms continued to worsen, and by mid-October 2017 he began
4 experiencing triple vision in and was unable to focus his left eye; the vision in his right
5 eye was limited to seeing cloudy white with blurry outlines; and he suffered constant pain
6 and throbbing in both eyes. In addition, his headaches became so severe they prevented
7 him from sleeping. By November 2017, Mr. Martin had no vision in his right eye, could
8 only see a reddish yellow color, and the eye was extremely painful and sensitive.

9 43. Defendants Balderamma, French, Hughes, and Doe NaphCare Employees continued to
10 refuse to administer Mr. Martin's multiple eye-drop prescriptions per Dr. Brady's
11 instructions. Rather than administer each medication one minute apart to allow
12 absorption into the eyes, Defendants chose to administer medications one after another,
13 presumably for their convenience.

14 44. On November 14 2017, suspecting Mr. Martin needed a cornea transplant, Dr. Brady
15 instructed Defendants to facilitate a consult with a cornea specialist at Pacific Northwest
16 Eye Associates within 2 weeks time. Defendants failed to schedule the appointment.

17 45. On November 21 2017, Dr. Brady again instructed Defendants to facilitate a consult with
18 a cornea specialist at Pacific Northwest Eye Associates and Defendants again failed to
19 schedule the appointment. Dr. Brady also wrote an eyeglass prescription to help Mr.
20 Martin focus his left eye and stop seeing triple.

21 46. Dr. Brady continued to instruct Defendants to facilitate a consult with a cornea specialist,
22 ordering the consult again on December 13, 2017; February 9, 2018; and February 20,
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1 2018. Defendants repeatedly failed to schedule the appointment and never scheduled a
2 consult Pacific Northwest Eye Associates.

3 47. On December 28, 2017, Plaintiff finally received his prescription glasses but Defendants
4 had incorrectly filled the prescription in the left lens, leaving Mr. Martin still
5 experiencing triple vision, with frames that were too large to fit on his head. When Mr.
6 Martin raised the issues, Defendants denied providing the wrong prescription and advised
7 Mr. Martin his eyes would adjust to the glasses if he wore them regularly. However, Dr.
8 Brady later informed Mr. Martin the glasses' prescription must have been incorrect
9 because a correct prescription would have eliminated his triple vision, and using glasses
10 with the wrong prescription could further damage his eyes.

11 48. On February 9, 2018, Dr. Brady diagnosed a corneal edema in Mr. Martin's the right eye
12 and prescribed Acetazolamide, a diuretic, to help address the issue. He advised
13 Defendants that because of the diuretic, Plaintiff would need a protein heavy and
14 electrolyte balanced diet to prevent drastic weight loss, and that he should have access to
15 protein drinks and beverages containing electrolytes. Defendants refused to comply with
16 Dr. Brady's instructions, and as a result, Plaintiff lost 25-30 pounds in approximately two
17 weeks and was unable to regain the weight until after his release from PCDC.

18 49. On February 20, 2018, in response to Defendants' seeming inability to administer
19 Plaintiff's medications as directed, Dr. Brady "strongly recommend[ed]" Mr. Martin be
20 allowed to keep his medications on his person because strict compliance with the
21 medication regimen was absolutely pertinent to long term treatment success. Dr. Brady
22 went on to repeat the instructions on February 20, March 23, and April 20, 2018.

1 50. On February 24, 2018, Plaintiff filed a third grievance complaining of his drastic weight
2 loss and advised he was not receiving the protein heavy and electrolyte balanced diet as
3 directed by Dr. Brady. On March 16, 018, jail staff denied having control over the food
4 he received and refused to follow Dr. Brady's instructions.
5

6 51. On March 21, 2018, Mr. Martin was finally transported to a cornea specialist, Dr. Walter
7 Rotkis at Ophthalmic Consultants Northwest. Dr. Rotkis confirmed the glasses provided
8 by Defendants were an incorrect prescription and advised Mr. Martin he needed a cornea
9 transplant in his right eye. Defendants never scheduled the surgery.
10

11 52. On information or belief, Defendants delays in scheduling the consult with Dr. Rotkis
12 and refusal to schedule surgery were based on consideration of financial constraints, not
13 based on medical judgment.

14 53. Defendants continued to provide inadequate medical care until Mr. Martin was released
15 from the PCDC in June 2018. After his release, Mr. Martin underwent multiple eye
16 surgeries including a failed partial cornea transplant, a full cornea transplant, and a
17 second partial cornea transplant.
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19 54. The rapid deflation of Mr. Martin's right eye, resulting from Defendants' inadequate
20 medical care, destroyed his cataract lens, leaving him only able to make out shadows and
21 with severely damaged peripheral vision in that eye. The deflation of Mr. Martin's left
22 eye permanently destroyed his peripheral vision, left it extremely sensitive to light, and
23 with no depth perception.
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25 55. Just prior to his detainment, Plaintiff worked as an assistant engineer on a commercial
26 fishing boat, and was previously a construction foreman. Plaintiff has been effectively

1 blinded and can no longer work as an assistant engineer or a construction foreman, as a
 2 consequence of his injuries resulting from Defendants' wrongful conduct.
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VII. CAUSES OF ACTION

A. Denial Of Medical Care (42 U.S.C. § 1983) Against All Defendants

56. Plaintiff incorporates by reference the preceding paragraphs as though fully set forth
 herein.

57. At all times relevant to the allegations in this Complaint, defendants Pierce County,
 Pierce County Does 1-10, Naphcare, Naphcare Does 1-10, Balderamma, Hughes, and
 French, acted under color of state law and in the performance of their official duties.

58. The Eighth Amendment to the U.S. Constitution provides post-conviction detainees the
 right to receive treatment for serious medical needs. Mr. Martin faced a substantial risk
 of serious harm due to ocular hypertension, a serious medical need.

59. Defendants Balderamma, Hughes, and French, had actual knowledge of Mr. Martin's
 dangerously high eye pressure levels and need for treatment on July 21, 2017, but
 demonstrated a reckless and deliberate indifference to his serious medical condition by
 failing to take reasonable measures to provide adequate treatment resulting in excessive
 risk to the Mr. Martin's vision.

60. Defendants Balderamma, Hughes, and French were recklessly and deliberately
 indifferent to Mr. Martin's serious medical needs when they failed to adequately follow
 the treatment plan that was prescribed by Dr. Brady and Dr. Rotkis. Specifically, they
 failed to properly administer medications, timely schedule appointments with outside
 medical providers, supplement Plaintiff's diet to avoid drastic weight loss, provide
 eyeglasses with the proper lens prescription, and timely schedule necessary surgeries.

1 61. Dr. Balderamma was recklessly and deliberately indifferent to Plaintiff's serious medical
2 need when he delayed scheduling a cornea specialist consult and then refused to schedule
3 a cornea transplant surgery after being notified Mr. Martin needed it.

4 62. On information and belief, Defendants Pierce County and NaphCare had a custom,
5 practice, and/or de facto policy of denying, delaying and interfering with detainees'
6 ongoing medical treatment, prioritizing the saving of money over the diagnosis and
7 treatment of detainees. This de facto policy was evident in NaphCare's practices such as
8 providing inmates the least amount of medical care possible, delaying care as long as
9 possible, delaying and denying the scheduling appointments with outside healthcare
10 providers, failing to timely administer medications, failing to timely order medications
11 and refill prescriptions, and delaying or denying needed surgeries.

12 63. On information and belief, defendants Pierce County and Naphcare Does, Balderamma,
13 Hughes, and French were following the de facto policy when they provided Mr. Martin
14 the least efficacious medical care for the purpose of saving money, showing reckless and
15 deliberate indifference to his serious medical needs. In particular, Defendants
16 Balderamma, Hughes and French regularly failed to timely order Mr. Martin's
17 medications, failed to properly administer the medications, failed to administer the
18 medications at all, failed to Mr. Martin's doctors' order and instructions, including those
19 relating to diet resulting in Mr. Martin's drastic weight loss. In addition defendant
20 Balderamma delayed and denied scheduling necessary appointments with outside
21 healthcare providers, delayed and denied needed surgeries inmates. As a direct result of
22 Pierce County and Naphcare's custom and policy, and the reckless and deliberate
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1 indifference of all Defendants, Mr. Martin suffered physical pain and permanent vision
2 loss.

3 64. Defendants' continued denial of medical care exacerbated Plaintiff's medical condition
4 and caused Plaintiff increased trauma, mental and emotional distress, and increased pain
5 and suffering.

6 65. Defendants' reckless and deliberate indifference to Plaintiff's serious medical
7 need caused him to suffer permanent loss of vision in both eyes requiring multiple and
8 future surgeries, pain and suffering, and permanent damage to his health, well-being, and
9 ability to earn an income.

10 66. In committing the acts complained of above, Defendants violated Mr. Martin's rights
11 under the Eighth Amendment to the United States Constitution and are subject to liability
12 under 42 U.S.C. § 1983.

13 67. As a direct and proximate result of the unlawful conduct of Defendants, Plaintiff suffered
14 damages and is entitled to compensation for loss of enjoyment of life, mental, physical
15 and emotional pain and suffering, and other related costs and which with reasonable
16 probability will be experienced in the future, including but not limited to attorneys' fees
17 and costs and pre- and post-judgment interest.

18 68. As a result of their conduct, Defendants are liable for Plaintiff's injuries, either because
19 they were integral participants in the misconduct, or because they failed to intervene
20 when they had the opportunity and duty to do so to prevent these violations.

21 69. The wrongful acts perpetrated by Defendants in depriving Plaintiff of adequate medical
22 treatment were willful, oppressive, malicious, and with wanton disregard for the
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established rights of Plaintiff, thereby justifying the award of punitive damages in an amount to be determined at trial.

B. Medical Malpractice (RCW 7.70) Against Defendants Balderrama, French, Hughes, Naphcare, And Naphcare Doe Employees 1-10

70. Plaintiff incorporates by reference the preceding paragraphs as though fully set forth herein.

71. At all times relevant herein, Defendants Balderrama, French, Hughes, and Naphcare Doe Employees 1-10, were acting in the course and scope of their employment at Naphcare and or Pierce County when they committed their acts of professional negligence.

72. At all times relevant herein, Defendant Naphcare was an entity, employing one or more health care professionals and liable for its employees' negligent acts if committed during the course and scope of their employment under RCW 4.16.350.

73. As health care providers, defendants Balderrama, French, Hughes, Naphcare, and Naphcare Doe Employees 1-10 ("Medical Negligence Defendants") had a duty to exercise the degree of skill, care, and learning expected of a reasonably prudent medical professional in Washington from 2017-2018 acting under similar circumstances.

74. Defendant Janel French LPN, Defendant Irina Hughes RN, and Naphcare Doe defendants failed to exercise the degree of care, skill, and learning expected of a reasonably prudent health care provider in the profession or the class to which they or belonged, acting under similar circumstances in 2017-2018 by, among other things, regularly failing to: 1) adequately follow the treatment plan prescribed by Dr. Brady and Dr. Rotkis, 2) provide Plaintiff his eye medications, 3) administer medications as directed, 4) timely refill prescriptions when needed, 5) ensure Plaintiff received supplemental nutrition to avoid

1 drastic weight loss failed to properly per doctor's order, 6) allow Plaintiff to keep
 2 medications on his person per doctor's instructions, and 7) regularly delaying and
 3 denying healthcare to Plaintiff. Such failures were a proximate cause of Plaintiff's
 4 injuries.

5 75. Defendant Miguel Balderrama, M.D. failed to exercise the degree of care, skill, and
 6 learning expected of a reasonably prudent licensed medical doctor in 2017-2018, acting
 7 under similar circumstances, by among other things regularly failing to: 1) adequately
 8 follow the treatment plan that was prescribed by specialists Dr. Brady and Dr. Rotkis, 2)
 9 ensure Plaintiff received his eye medications, 3) administer medications as directed, 4)
 10 timely refill prescriptions when needed, 5) ensure Plaintiff received supplemental
 11 nutrition to avoid drastic weight loss failed to properly per doctor's order, and 6) allow
 12 Plaintiff to keep medications on his person per doctor's instructions, and 7) regularly
 13 delaying and denying healthcare to Plaintiff. In addition, Dr. Balderrama regularly
 14 delayed scheduling appointments with outside healthcare providers, delayed scheduling
 15 and refused to schedule needed surgeries, failed to provide Mr. Martin with eyeglasses
 16 with the proper prescriptions as directed by Mr. Martin's doctors, and failed to
 17 adequately monitoring staff performance to assure compliance with practice standards.
 18 Such failures were a proximate cause of Mr. Martin's injuries.

19 76. Medical Negligence Defendants' denial of Plaintiff's medical care exacerbated his
 20 medical condition and caused him increased trauma, mental and emotional distress, and
 21 increased pain and suffering.

22 77. As a result of the allegations contained in this complaint, all Defendants are subject to
 23 liability under RCW 7.70 for failing to exercise the degree of care, skill, and learning
 24
 25
 26

1 expected of a reasonably prudent health care provider in the profession or class to which
2 they belonged, in the state of Washington, acting in the same or similar circumstances.

3 78. As a direct and proximate result of the unlawful conduct of Defendants, Plaintiff suffered
4 damages and is entitled to compensation for loss of enjoyment of life, mental, physical
5 and emotional pain and suffering, and other related costs and which with reasonable
6 probability will be experienced in the future.
7

8 **VIII. JURY DEMAND**

9 79. Plaintiff hereby demand a trial by jury.

10 **IX. PRAYER FOR RELIEF**

11 Damages have been suffered by Plaintiff and to the extent any state law limitations on
12 such damages are purported to exist, they are inconsistent with the compensatory, remedial
13 and/or punitive purposes of 42 U.S.C. § 1983, and therefore any such alleged state law
14 limitations must be disregarded in favor of permitting an award of the damages prayed for
15 therein. WHEREFORE, the Plaintiff prays that the Court award against Defendants:
16

- 17 A. All available compensatory damages, including, but not limited to, all available
18 damages for pain and suffering, physical, mental and emotional, loss of enjoyment of
19 life, and all other non-economic and economic damages available under federal law;
20
21 B. Punitive damages in an amount deemed appropriate to punish Defendants for their
22 wrongful and egregious conduct;
23
24 C. Attorneys' fees and costs;
25
26 D. Pre-judgment interest and post-judgment interest as appropriate; and
E. Any such other relief that this Court deems just and equitable.

1
2 DATED this 17th day of December, 2020.
3

4 BOYLE MARTIN THOENY, PLLC
5

6 /s Bardi D. Martin

Bardi Martin, WSBA # 39077

7 100 West Harrison Street

8 South Tower Suite 300

Seattle, WA 98119

9 Tel: 206-217-9400

Email: Bardi@boylemartin.com

10 Attorney for Plaintiff
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